MONTANA LEGISLATIVE HISTORY

Chapter 295 19 87

Bill H _____ S 114 Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) 3/12 ___C

_____ ___C

_____ ___C

_____ ___C

Date Out 3/17 ___C

S. Committee on ~~#5~~ ~~1/23~~ Judiciary

Hearing Date(s) 1/23 ___C

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Fiscal Note

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NUMBER 412 EFFECTIVE DATE: 10/01/87

SB 114 INTRODUCED BY THAYER, COMPTON
REQUIRE NOTICE FILING OF TITLE 71 AGRICULTURAL LIENS WITH SECRETARY OF STATE
BY REQUEST OF SECRETARY OF STATE

1/15	INTRODUCED		
1/15	REFERRED TO JUDICIARY		
1/15	FISCAL NOTE REQUESTED		
1/23	HEARING		
1/23	FISCAL NOTE RECEIVED		
1/27	COMMITTEE REPORT--BILL PASSED		
1/30	2ND READING PASSED	49	1
2/02	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/04	REFERRED TO BUSINESS & LABOR		
2/12	REREFERRED TO JUDICIARY		
3/12	HEARING		
3/17	COMMITTEE REPORT--BILL CONCURRED		
3/20	2ND READING CONCURRED	96	1
3/21	3RD READING CONCURRED	92	4
	RETURNED TO SENATE		
3/26	SIGNED BY PRESIDENT		
3/26	SIGNED BY SPEAKER		
3/26	TRANSMITTED TO GOVERNOR		
3/31	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 295 EFFECTIVE DATE: 10/01/87		

SB 115 INTRODUCED BY GAGE, TVEIT, BOYLAN, ET AL.
REQUIRING CONTINUING EDUCATION FOR LIFE AND DISABILITY INSURANCE AGENTS

1/16	INTRODUCED		
1/16	REFERRED TO BUSINESS & INDUSTRY		
1/19	SPONSORS ADDED		
1/21	HEARING		
1/22	FISCAL NOTE REQUESTED		
1/29	FISCAL NOTE RECEIVED		
2/10	STATEMENT OF INTENT ADOPTED		
2/10	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	50	0
2/16	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/18	REFERRED TO BUSINESS & LABOR		
3/06	HEARING		
3/06	TABLED IN COMMITTEE		

SB 116 INTRODUCED BY FARRELL
STRENGTHEN ENFORCEMENT OF GASOLINE LICENSE TAX COLLECTION LAWS

1/16	INTRODUCED		
1/16	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/16	FISCAL NOTE REQUESTED		
1/24	FISCAL NOTE RECEIVED		
2/03	HEARING		
2/06	COMMITTEE REPORT--BILL PASSED		
2/10	2ND READING PASSED	50	0
2/12	3RD READING PASSED	50	0

Senate BILL NO. 114

INTRODUCED BY Ted Gyde Stapleton

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICE OF A TITLE 71 AGRICULTURAL LIEN AND A TERMINATION STATEMENT OF THE LIEN BE FILED WITH THE SECRETARY OF STATE; AMENDING SECTIONS 71-3-402, 71-3-404, 71-3-408, 71-3-703, 71-3-704, 71-3-712, 71-3-713, 71-3-802, 71-3-808, 71-3-902, AND 71-3-908, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Notice of agricultural lien. (1) Unless a notice of an agricultural lien has been filed in the office of the secretary of state as provided in this chapter, a buyer who, in ordinary course of business (30-1-201(9)), buys a farm product takes it free of any lien created by this chapter even though the lien is otherwise perfected.

(2) A notice of an agricultural lien is sufficient if it:

(a) gives the names and addresses of the debtor and lienor;

(b) describes the type of lien and its statutory authority;

(c) describes the collateral;

(d) contains the notation by the county clerk and recorder of the date of filing; and

(e) is signed by the lienor.

(3) Such notice must be in the form prescribed by the secretary of state.

(4) The secretary of state shall:

(a) record such notice on the centralized computer system as set forth in 30-9-403; and

(b) establish fees for such recordings as set forth in 30-9-403.

(5) For the purposes of this section, an agricultural lien means a lien under parts 4, 7, 8, or 9 of this chapter.

Section 2. Section 71-3-402, MCA, is amended to read:

"71-3-402. How lien obtained. (1) In order to acquire a lien, as specified in 71-3-401, the person performing such services shall, within 30 days after the services are fully performed, file in the office of the clerk and recorder in the county in which any of the real estate is situated on which any crop is grown, upon which a lien is claimed, a statement verified by affidavit of the person claiming such lien, his duly authorized agent, or attorney having knowledge of the facts, setting forth the terms of employment, the name of the employer, the time when the services were commenced and when ended, the wages agreed

INTRODUCED BILL
SB 114

upon, if any, and if not agreed upon then the reasonable value of the same, the terms of payment, if any, and a description of the real estate on which any crop is grown or has been grown or harvested on which a lien is claimed, the amount paid him, if any, and the amount remaining unpaid and that said laborer claims a lien for the same and the address to which notice shall be directed as required by 71-3-404.

(2) Notice of the lien also must be filed in the office of the secretary of state as required by [section 1]."

Section 3. Section 71-3-404, MCA, is amended to read:

"71-3-404. Notice to other lienholders. (1) Every person intending to foreclose a lien secured under the provisions of this part must give a written notice to the owner or the person against whom the lien is claimed and all chattel mortgagees, encumbrancers, and all other lienholders who appear on record in the office of the county clerk and recorder or secretary of state that in not less than 10 days from the date of said lien notice he will institute proceedings for the foreclosure of his lien, and all other labor lienholders to whom notice is given shall have the right to join in said foreclosure proceedings and be entitled to a pro rata share of the proceeds of the foreclosure sale, as hereinafter provided. However, if the notified labor lienholders do not join in said proceedings,

they shall not be entitled to share pro rata in the proceeds of the sale.

(2) The lien notice required herein must be given by registered or certified mail and directed to the last-known address of the owner or the person against whom the lien is claimed and to the addresses of the chattel mortgagees, encumbrancers, and all other lienholders as their addresses appear of record. The return of the foreclosure sale must be accompanied by due proof of the giving of such notice as required to be given herein."

Section 4. Section 71-3-408, MCA, is amended to read:

"71-3-408. Acknowledgment of satisfaction of lien -- penalty. (1) Whenever the indebtedness which is a lien upon any of such crops is paid and satisfied, it is the duty of the lienor to acknowledge satisfaction thereof and to discharge the lien of record. If any lienor fails to acknowledge satisfaction and discharge said lien within 30 days after being requested to do so by a person having a property interest in such crops, he is liable to any person injured thereby in the amount of such injury and costs of action.

(2) A termination statement as described in 30-9-404 must be filed with the secretary of state with the same obligations and penalties described in subsection (1)."

Section 5. Section 71-3-703, MCA, is amended to read:

"71-3-703. How to obtain lien. (1) Any person who is entitled to a lien under 71-3-701 shall, within 90 days after the seed or grain is furnished or the funds, means, or moneys advanced therefor, file in the office of the county clerk and recorder of the county in which such seed or grain is to be planted or used a statement in writing verified under oath showing the kind and quantity of the seed or grain furnished, its value, or the amount of the funds or money advanced to pay therefor, the name of the person or persons to whom furnished, and a description of the land and of each tract of land upon which the same is to be or has been planted or sown or used in the production of a crop. Unless the person entitled to such lien shall file such statement within the time aforesaid, he shall be deemed to have waived the right thereto.

(2) Notice of the lien also must be filed in the office of the secretary of state as required by [section 1]."

Section 6. Section 71-3-704, MCA, is amended to read:

"71-3-704. Acknowledgment of satisfaction of lien -- penalty. (1) Whenever the indebtedness which is a lien upon such grain or other crops is paid and satisfied, it is the duty of the lienor to acknowledge satisfaction thereof and to discharge the lien of record. If any lienor fails to acknowledge satisfaction and discharge of said lien as

aforesaid within 30 days after being requested to do so by a person having a property interest in such grain or other crops, he is liable to any person injured thereby in the amount of such injury and the costs of the action.

(2) A termination statement as described in 30-9-404 must be filed with the secretary of state with the same obligations and penalties described in subsection (1)."

Section 7. Section 71-3-712, MCA, is amended to read:

"71-3-712. How lien obtained. (1) Any person who is entitled to a lien under 71-3-711 shall, within 30 days after the insurance is issued, file in the office of the county clerk and recorder of the county in which the crop so insured is located a statement in writing verified under oath giving the description of the land upon which the crop is planted, together with the kind of crop insured; provided that with a mutual company it may file a lien for the largest amount that may become due under its assessment power, and in the event that the amount assessed shall not be as large as the amount of the lien claimed, then the amount assessed and due shall be the amount the mutual insurance company shall be entitled to under this lien. Unless the person, company, association, or corporation entitled to such a lien shall file such statement within the time aforesaid, he or it shall be deemed to have waived the right thereto.

(2) Notice of the lien also must be filed in the office of the secretary of state as required by [section 1]."

Section 8. Section 71-3-713, MCA, is amended to read:

"71-3-713. Acknowledgment of satisfaction of lien -- penalty. (1) Whenever the indebtedness, which is a lien upon such grain or other crops, is paid or satisfied on or before November 1 of the current year, it is the duty of the lienor to acknowledge satisfaction thereof within 20 days after receiving payment and to discharge the lien of record. If any lienor fails to acknowledge satisfaction and discharge of said lien as aforesaid, he is liable to any person injured thereby in the amount of such injury and the costs of action. If any hail lien is not satisfied on or before March 1 of the next succeeding year after the insurance was carried on the crop, the same shall be deemed satisfied and released of record.

(2) A termination statement as described in 30-9-404 must be filed with the secretary of state with the same obligations and penalties described in subsection (1)."

Section 9. Section 71-3-802, MCA, is amended to read:

"71-3-802. How lien obtained. (1) Every person intending to avail himself of the benefits of this part must file with the county clerk of the county in which said grain or other crops were grown, within 10 days after the last

LC 0800/01

service was rendered or labor performed in the threshing of said grain or other crops or the cutting and harvesting and threshing by said combined harvester and thresher, a notice that within 20 days a lien, as specified in 71-3-801, will be claimed and within 20 days thereafter shall file with the county clerk and recorder of the county in which said grain or other crops were grown a just and true account of the amount due him or them for such services or labor after allowing all just credits and offsets and containing a correct description of the grain or other crops to be charged with such lien, the price agreed upon for such threshing or cutting and harvesting, the name of the person, firm, or corporation for whom such labor and services were performed, and a description of the lands as nearly as possible upon which said grain or other crops were raised, and a description of the legal subdivision of land upon which said grain is stored and, if said grain is stored in an elevator, the locality of the elevator, which statements of facts shall be verified by affidavit of the person claiming such lien or his duly authorized agent or attorney having knowledge of the facts. Any error or mistake in the account or description of the grain or other crops or of the property upon which it was raised shall not invalidate such lien.

(2) If the grain or other crops so cut, harvested, and

threshed are being hauled from the machine or combine direct to the elevator or to any other purchaser, then the threshermen or owner of the combine desiring to claim such lien shall also serve written notices upon the elevatorman or other private purchaser that he will claim and file a lien upon said grain or other crops for his services or labor performed in threshing or combining and threshing the same.

(3) Notice of the lien also must be filed in the office of the secretary of state as required by [section 1]."

Section 10. Section 71-3-808, MCA, is amended to read:

"71-3-808. Acknowledgment of satisfaction of lien -- penalty. (1) Whenever the indebtedness which is a lien upon any such grain or other crops is paid and satisfied, it is the duty of the lienor to acknowledge satisfaction thereof and to discharge the lien of record; and if any lienor fails to acknowledge satisfaction and discharge said lien as aforesaid within 30 days after being requested to do so by a person having a property interest in such grain or other crops, he is liable to any person injured thereby in the amount of such injury and the costs of action.

(2) A termination statement as described in 30-9-404 must be filed with the secretary of state with the same obligations and penalties described in subsection (1)."

Section 11. Section 71-3-902, MCA, is amended to read:

"71-3-902. How lien obtained. (1) Any person, firm, corporation, or partnership who is entitled to a lien under this part shall, within 60 days after the last labor or service was performed or material furnished in crop dusting or spraying grains or crops, file in the office of the county clerk and recorder of the county in which said grains or crops were grown a just and true account of the amount due for such services, labor, or material after allowing all proper credits and offsets and containing a description of the grain or crops to be charged with such lien, the price agreed upon for such labor or service or material or, if no price was agreed upon, the reasonable value of the same, together with the name of the person, firm, or corporation for whom such labor or services were performed or material furnished and a description of the lands as nearly as possible upon which said grains or crops were raised, which statements of fact shall be verified by affidavit of the person, firm, corporation, or partnership claiming such lien or his, their, or its duly authorized agent or attorney having knowledge of the facts.

(2) Notice of the lien also must be filed in the office of the secretary of state as required by [section 1]."

Section 12. Section 71-3-908, MCA, is amended to read:

"71-3-908. Acknowledgment of satisfaction and discharge of lien -- penalty. (1) Whenever the indebtedness which is a lien upon any grain or crops is paid and satisfied, it is the duty of the lienor to acknowledge satisfaction thereof and to discharge the lien of record. If any lienor fails to acknowledge satisfaction and discharge said lien within 30 days after being requested to do so by a person having a property interest in such grain or crops, he is liable to any person injured thereby in the amount of such injury and the costs of action.

(2) A termination statement as described in 30-9-404 must be filed with the secretary of state with the same obligations and penalties described in subsection (1)."

NEW SECTION. Section 13. Extension of authority. Any existing authority of the secretary of state to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 14. Codification instruction. Section 1 is intended to be codified as an integral part of Title 71, chapter 3, part 1, and the provisions of Title 71, chapter 3, part 1, apply to section 1.

NEW SECTION. Section 15. Applicability. This act applies to liens filed after the effective date of this act.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for SB114, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to require that notice of a Title 71 Agricultural Lien and a Termination Statement of the lien be filed with the Secretary of State; amending Sections 71-3-402, 71-3-404, 71-3-408, 71-3-303, 71-3-704, 71-3-712, 71-3-713, 71-3-802, 71-3-808, 71-3-902, and 71-3-908, MCA; and providing for an applicability date.

ASSUMPTIONS:

1. Approximately 100 notices of lien filings will be processed by the Secretary of State annually.
2. Approximately 80 terminations will be processed annually.
3. Fees for service will remain constant.
4. Additional workload can be accomodated by exrsting personnel.

FISCAL IMPACT:

	FY88	FY89
Revenues:	$ 700	$ 700

David L. Hunter DATE 1/2/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Gene Thayer DATE Jan 20, 1987

GENE THAYER, PRIMARY SPONSOR

Fiscal Note for SB114, as introduced.

SB 114
SB-114

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 23, 1987

The thirteenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 23, 1987 by Vice Chairman Bruce Crippen in Room 325 of the Capitol Building.

ROLL CALL: Senators Joe Mazurek and Bob Brown were late for the meeting and Senator Jack Galt was excused.

CONSIDERATION OF SB 119: Senator Cecil Weeding of Senate District #14 opened the hearing on SB 119 by saying the bill amends the Plain Language in Contracts Act to exempt all insurance policies from the Act, which requires all consumer contracts to be in "plain language". These policies are exempt from the Act because they are subject to the "Life and Disability Insurance Language Simplification Act" in the Insurance Code.

PROPONENTS: Les Loble of the American Council of Life Insurance gave out a hand out of the sections of 33-15-316 through 33-15-324 of the Contracts Act which involves insurance companies application exceptions. He said he agreed there were no problems with section 33-15-324 (see Exhibit 1).

Robert Throssett, from the State Auditor's Office, supported the bill (see Exhibit 2, written testimony).

Bonnie Tippy, American Insurers, said the organization supports the bill.

OPPONENTS: None

DISCUSSION ON SB 119: None

Senator Weeding closed.

ACTION ON SB 119: Vice Chairman Crippen said the committee should take action on SB 119. Senator Blaylock moved SB 119 DO PASS. The motion carried unanimously.

CONSIDERATION OF SB 114: Senator Gene Thayer of Senate District #19 introduced SB 114 as a housekeeping bill because it clarifies the filing of agricultural liens and termination statements of such liens to the Secretary of State's office and with the Clerk and Recorder's Office. He said it will provide a filing, instead of a copy at the state level.

PROPONENTS: Larry Avey of the Secretary of State's Office said this

procedure is a voluntary procedure for this kind of lien and not a mandatory one. He pointed out that the bill doesn't change the place of filing. He said the filing procedure will stay in the county courthouse. He explained the buyers of farm products would be able to get information through the Secretary of State after the information is filed at the county courthouse.

Phil Johnston, Montana Bank Association, supported SB 114, but felt the bill should be amended to only filing with the Secretary of State's Office.

Greg Jackson, Montana Clerk and Recorder's Association, supported the bill. He said there is a House Bill which returns the filings of agricultural liens back to only the counties. He suggested the committee should not take action today on this bill. He felt there were problems in the centralized filing procedures of the bill.

John Cadby, Montana Bankers Association, felt there is no reason to delay this bill from executive action. He said he could not see anyone not wanting this piece of legislation. He said it is a simple procedure of building a centralized filing system to deal with agricultural liens.

Terry Murphy, Montana Farmers Union, supported the bill.

DISCUSSION ON SB 114: Senator Blaylock asked what the Clerk and Recorders' concern was about this bill. JoAnne Peres said they felt this problem should be handled on local level because computer access to Helena is not accessible much of the time. Senator Blaylock said the bill stated that these liens will be filed on the county level too. JoAnne Peres, Montana Clerk and Recorder Association, said people who have cooperate records that might be doing a title search have to come to the Clerk and Recorder's office, and if they don't have the what the person is looking for, then the searcher has to go to the Secretary of State's Office. Senator Blaylock stated that the information should be in both places. JoAnnne Peres thought it should be too.

Senator Pinsoneault asked what the filing fee was. Ms. Peres replied it was $7.00.

Senator Halligan asked if there were any penalties for not filing with the Clerk and Recorder's Office. Ms. Peres said there is a penalty. She pointed out if you terminate a filing, you have to terminate the filing at the Clerk and Recorder's office and the Secretary of the State's office. Senator Halligan stated the bill makes one liable for one's own filings on lien settlements and not the people who record the lien.

Senator Thayer closed on the bill and he handed the committee testimony

from Gib Goodman, representative of Montana Grain Elevator Association (see Exhibit 3, written testimony).

The committee adjourned the hearings for executive action.

ACTION ON SB 52: Senator Brown stated the recording of insurance rates, presently, is unfunctionable. He said for the bill to work, there will have to be more F.T.E.'s apportioned. Senator Brown explained that the hearing schedule in the bill is only set when a rate is lower or higher than the band set by the State Auditor. Senator Crippen commented Montana is a different state than New York, and asked the committee to wait and see what this system will do in other states. He commented the entire Legislature will not be happy with the committee if they added a half a million into the general fund for extra F.T.E.'s. Senator Yellowtail had no problem with the insurance company attending a hearing to justify their rate settings. Senator Crippen said the present file and rate system can approve rates. Senator Brown moved to TABLE SB 52, because he felt the committee couldn't accept the fiscal note of SB 52. Senator Yellowtail said that if this system is not in place, than the consumers will pay for it. Senator Mazurek pointed out that what the state has now, the state can "limp" along with, because it is funded, but if the new system passed, than the Legislature is looking at more funding. Senator Brown said he would ask the Insurance Commissioner how much money he would need to get by if this bill went into action. Senator Beck thought if the Legialture would give the present system enough money that it might work better. The motion carried to TABLE SB 52 (see ROLL CALL VOTE SHEET).

ACTION ON SB 20: Senator Halligan gave the committee amendments prepared by Valencia Lane (see Exhibit 4). Senator Halligan explained that the committee had already made some changes in the bill (see standing committee report, amendments #1 and #2, January 19, 1987). Mr. George Bennett, Montana Banker Association, commented on the amendment that was given today. He felt the lien should start the day the lien is filed with the Clerk and Recorder. He said the proposed amendment gives five more days to a 20 day lien notices. He felt the notice days of the lien should be shorten to 15 days if this amendment goes through. Senator Halligan said the consumer should be the one that knows about the lien first. Senator Brown moved the amendment that Senator Halligan presented today. The motion carried.

Senator Halligan moved the bill DO PASS AS AMENDED. The motion carried.

ACTION ON SB 23: Valencia Lane handed the committee amendments and a gray bill (see Exhibit 5 and 6). Senator Halligan stated the amendments eliminated the Montana School Board Association's involvement in this bill. Senator Mazurek had concern about the word "affect" in amendment 8, because school boards may not regulate, but they have an effect on

ROLL CALL

Judiciary COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date Jan. 23rd

NAME	PRESENT	ABSENT	EXCUSED
Senator Joe Mazurek, Chairman			
Senator Bruce Crippen, Vice Chairman	X		
Senator Tom Beck	X		
Senator Al Bishop	✓		
Senator Chet Blaylock	✓		
Senator Bob Brown			
Senator Jack Galt			
Senator Mike Halligan	X		
Senator Dick Pinsoneault	X		
Senator Bill Yellowtail	X		

Each day attach to minutes.

DATE Jan. 23rd, 1987

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Bryan Enderle	Missoula Chamber of Commerce	SB 119		
Tony Murphy	MT. Farmers Union	SB 114	✓	
Les Loble	Am Council of Life Ins	SB 119	✓	
Greg Jackson	MT Clk & Rec Assn	SB 114		
[illegible]	" " " "	SB 114		
[illegible] Johnson	MBA	SB 114	✓	
[illegible] Cobb	MT Bankers Assn	SB 114	✓	
Robert Throssell	State Auditor	SB 119	✓	
Bob Helding	MT. Assoc. Realtors	SB 114 SB 140	✓ ✓	
Sandy Chalmers	Womens Lobbyist Fund	SB 119		
Larry Akey	Sec of State	SB 114	X	
Sue Armstrong	Student ICEF	SB 114		

(Please leave prepared statement with Secretary)

SENATE JUDICIARY
EXHIBIT NO. 3
DATE Jan. 23, 1987
BILL NO ~~HB~~ SB 114

Mr. Chairman:

I, Gib Goodman, of Helena, Montana, a member and representative of the Montana Grain Elevator Association, supports House Bill 114. Our annual business meeting is being held at the Heritage Inn in Great Falls. At 4:00 p.m., January 22, 1987, a motion was made and passed unanimously to support ~~House~~ Senate Bill 114. Since passage last session of Central Filing System, all UCC liens have been filed in Helena while many statutory liens remain at local Clerk and Recorders offices. The purpose of central filing is to get all liens in one spot. ~~House~~ Senate Bill 114 would accomplish this. For this reason, the Montana Grain Elevator Association supports ~~House~~ Senate Bill 114.

Thank you.

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 12, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on March 12, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Rapp-Svrcek who was absent.

SENATE BILL NO. 104: Sen. Pinsoneault, District No. 27, stated this bill is simply a repealer eliminating the provision providing that concealment of merchandise does not constitute proof of the commission of theft. He submitted as (Exhibit A) a copy of the current statute, 46-6-504 MCA.

PROPONENTS: FRANK CAPPS, representing the 752 Independent Grocery Stores throughout the State of Montana, stated he owns two grocery stores in Helena, and the year end totals show that out of both grocery stores they averaged $6,000.00 per store in the last year of known theft from shoplifting. He urged support for SB 104.

TOM DAULING, Montana Food Distributors Association, explained this area of concealment has been singled out. It causes confusion, it is not needed and it is in effect another hurdle that the merchant is faced with. He asked that this section be repealed because the general criminal law addresses this adequately.

GEORGE ALLEN, Montana Retail Association, went on record in support of this legislation. He stated this section should be eliminated and the judge be allowed to decide on the evidence.

There were no further proponents testifying and no opponents.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 104: Rep. Bulger questioned Sen. Pinsoneault on the example he used in his opening remark regarding someone putting a toothbrush in their purse and forgetting to pay for it. He stated the state still has the burden of proof.

Rep. Eudaily asked Sen. Pinsoneault if this section was repealed would it make it any more difficult for someone to go back to the store and return the merchandise. He stated he did not think so.

Voters to take in opposing any kind of elected positions. An election is a check and balance system.

Sen. Bishop closed the hearing on SB 108 by stating this bill was not designed at any person. The strongest argument he can make is in the figures. The last appointment to the District Court bench was not the choice that was the best. He stated he does not think the present process is a good one.

SENATE BILL NO. 114: Sen. Thayer, District No. 19, stated in the last session, SB 129 was presented and passed which provided for centralized filing of liens on agricultural products and we thought all the bases were covered but, unfortunately, we have to come back this session and make an amendment. This bill provides that a voluntary notice by which a lienor acting under the authority of Title 71, could file a notice of an agricultural lien with the office of the Secretary of State after filing the lien with the county. If no such notice is filed a buyer in the ordinary course of business can buy the product free and clear of any lien. The lien would still be effective between the lienor and the producer and would still perfect the interest for purposes of priority. This bill places the burden to act on the lienor but is not mandatory. Currently, no one is certain if Title 71 liens follow the buyer of secured products or not. This bill makes certain of the buyers liability and to facilitates the agricultural lending system without changing the place of filing for these essentially local liens.

PROPONENTS: K. M. KELLY, Lobbyist, Montana Grain Elevator Association, stated the Secretary of State has proven its' ability to effectively handle the volume of filings required in Montana and this remains the most cost effective center at which to record the liens. He recommended a do pass on this bill and submitted written testimony. (Exhibit A).

LARRY AKEY, representing the Secretary of State, stated an important part of this bill is that these filings are voluntary and are not mandatory. He urged support for this legislation.

REP. DAVE BROWN, went on record as a strong proponent for this bill.

There were no opponents to SB 114.

QUESTIONS (OR DISCUSSION) ON SENATE BILL 114: Rep. Meyers pointed out he only sees a reference to crops and wondered if that is all that is included. Sen. Thayer stated it includes seed liens, and sprayer liens. Livestock is excluded.

Rep. Miles asked Mr. Akey how many liens were filed last year. He stated there were about 30,000. She asked how much it would cost to file a lien in the office. Mr. Akey said it costs $7.00 per new filing and $5.00 for any amendments, assignments or partial releases of collateral. He stated there is no fee for a termination statement because that is included in the fee for the initial filing. Rep. Thayer closed the hearing on SB 114 by stating this is an important bill for the people in this industry and he urged support.

SENATE BILL NO. 20: Sen. Halligan, District No. 29, stated this is a product of the interim lien law committee. This act generally revises the laws relating to mechanics' liens. Page 1, line 17, states there are no secret liens unless they are included in this particular provision of the bill. Page 4, relates to who may claim a lien. The mechanics' lien name has been changed to a construction lien to have a broader concept and hopefully a clearer concept, he said. Page 7, line 22, consists of the most important provision of the bill. It deals with the problem of secret liens. The interim committee hopes that this bill can be used for at least two years to see how it manages out.

PROPONENTS: IRVIN E. DELLINGER, Secretary for the Montana Building Materials Dealers Association, and Montana Lien Law Coalition, Chairman, stated the subcommittee on lien law has come up with a bill that will address some of the concerns of the legislators. The bill has a notification that must be sent to the consumer which will alert them of potential liens, and what to do to avoid double jeopardy. It must be filed with the clerk and recorder so that there is a public record of potential liens. There is some concern about the number of days to send and file the notice, but we felt that 20 days was a good intermediate number. He stated he feels this is a major improvement to the existing laws and asked that this be passed. He submitted written testimony. (Exhibit A). Also submitted by Mr. Dellinger is (Exhibit B) a Notice of the Right to Claim a Lien.

NORM SIMPSON, Montana Bankers, First Interstate Bank, Kalispell, stated that the spirit of intent for SB 20 was to eliminate, if possible, down to the greatest degree possible, the secret lien. He recommended an amendment by changing Section 7, subparagraph 3, to read 15 days. That way an effective period of 23 days can be obtained.

RILEY JOHNSON, Montana Home Builders, stated they were part of the interim subcommittee and are supporting this legislation. The main concern they had was to eliminate the secret lien. He stated the 20 days they are asking for is meeting our charge to supply the information to the consumer. He

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 12, 19

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)		✓	
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

CS-30

WITNESS STATEMENT

A
3-12-87
SB 44

NAME K. M. Kelly BILL NO. SB 44

ADDRESS 4605 Glass DRive - Helena, MT 59601 DATE 3/12/87

WHOM DO YOU REPRESENT? Montana Grain Elevator Assn

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

See Statement Attached

General Mills, Inc.
Procurement Division
202 Central Avenue
Post Office Box 5022
Great Falls, Montana 59403
(406) 761-6252

A
3-12-87
SB # 1140

March 5, 1987

Ken Kelly
4605 Glass Drive
Helena, Mt 59601

Re: Senate Bill 114

Mr. Chairman, members of the committee. On behalf of the Montana Grain Elevator Association I would support passage of S.B. 1140. The last session of the Montana Legislature enacted a bill that provided for central filing of agriculture leins with the Secretary of State. Since then, National Legislation has passed requiring either central filing or lender notification to protect purchasers of agricultural commodities. In keeping with the intent behind both of these laws, Title 71 agricultural leins should also be filed centrally to allow accurate searches prior to payment. The Secretary of State has proven its ability to effectively handle the volume of filings required in Montana and this remains the most cost effective center at which to record the leins. We hope you will recommend a "do-pass" on this bill.

If you have any quesions please call.

Sincerely,

Kerry Schaefer
Assistant Manager

KS/djh

VISITORS' REGISTER

JUDICIARY COMMITTEE

SENATE BILL NO. 114 DATE March 18, 1987

SPONSOR

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
K M. Kelly	Mont. Grain Elevator Assn	X	
LARRY AKEY	SEC OF STATE	X	
[illegible]	[illegible]	X	
[illegible]	[illegible]		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 17, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on March 17, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present.

EXECUTIVE SESSION:

ACTION ON SENATE BILL NO. 102:

Rep. Cobb moved that SB 102 BE CONCURRED IN. Rep. Cobb moved amendments and explained them. (Exhibit A). He stated this bill will have no effect on in-stream flows and the flow rate and volume will be used only when the judge requires it. The passage of the amendments will stop a lot of the objections on volume in irrigation rights. Rep. Gould asked Rep. Cobb if he has run the amendments pass the sponsor of the bill and he stated that he has. Rep. Eudaily asked Rep. Cobb to explain the fourth amendment. Rep. Cobb pointed out that this amendment has to do with stock ponds and reservoirs that have never been historically measured by flow rate. They have been measured by volume. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Cobb moved that SB 102 BE CONCURRED IN AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Mercer questioned the Statement of Intent and Rep. Cobb stated the statement should be left off and changed on the House floor. Rep. Cobb stated the substance of the law is actually in the statute and in the first two amendments. SB 102, BE CONCURRED IN AS AMENDED.

ACTION ON SENATE BILL NO. 108:

Rep. Darko moved that SB 108 BE NOT CONCURRED IN. Rep. Miles agreed with the motion and stated they have to go through an election anyway. Rep. Hannah further agreed with the motion. Question was called and a voice vote was taken. The motion CARRIED 10-7. SB 108 BE NOT CONCURRED IN.

ACTION ON SENATE BILL NO. 96:

Rep. Miles moved that SB 96 BE CONCURRED IN. Reps. Mercer and Meyers stated they feel the penalty is quite severe. Rep. Eudaily stated the penalty for subsection (1) is the

same as it is for the first part of subsection (2), but it does not apply to the second part of subsection (2). Rep. Eudaily pointed out that technically it should be alright. Question was called and a voice vote was taken. The motion CARRIED 12-4. SB 96 BE CONCURRED IN.

ACTION ON SENATE BILL NO. 114:

Rep. Brown moved that SB 114 BE CONCURRED IN. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB 114 BE CONCURRED IN.

ACTION ON SENATE BILL NO. 306:

Rep. Giacometto moved that SB 306 BE CONCURRED IN. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB 306 BE CONCURRED IN.

SENATE BILL NO. 261: Sen. B. Brown, District No. 2, sponsor, stated this bill increases the penalty for a person 21 years or older convicted of a sale of dangerous drugs if the sale was to a minor or within proximity to the real property comprising a school. He pointed out that the Senate amended the bill by deleting the term "adult" so that the bill would apply to someone 21 years or older. If someone is convicted of the sale of a dangerous drug included in schedule I or schedule II, and if previously convicted of two or more such sales, the person shall be imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than $50,000.00, or both. He explained the point of the bill is that most young people do not manufacture dangerous drugs and they do not cultivate dangerous drugs, so in most cases, they get them from adults.

PROPONENTS: MARK J. MURPHY, Montana County Attorneys Association, stated this bill recognizes that the dangerous drug business is just that, a business. This bill protects the young school children by protecting certain areas, the school area and it does this by increasing the mandatory minimum sentences if each one of the conditions is met.

There were no further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 261: Rep. Hannah asked Mr. Murphy why the language was changed and the word "adult" was deleted. Mr. Murphy stated the Senate felt there might be a group of people within the high school that are in fact adults but have not yet reached 21 years of age. He pointed out an adult is anyone who has turned the age of 18.

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 17, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

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STANDING COMMITTEE REPORT

MARCH 17, 19 37

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 114

- ☐ do pass
- ☐ do not pass
- ☒ be concurred in
- ☐ be not concurred in
- ☐ as amended
- ☐ statement of intent attached

Chairman

THIRD reading copy (BLUE color)

REP. COMPTON WILL CARRY THE BILL!